

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TENNESSEE
CHATTANOOGA DIVISION**

ECOLAB Inc., and NALCO COMPANY, LLC
d/b/a Nalco Water, an Ecolab Company and/or
Nalco Water,

Plaintiffs,

v.

ANTHONY RIDLEY, and CHEMTREAT,
INC.,

Defendants.

Case No. 1:22-cv-00050-TRM-SKL

Hon. Travis McDonough

Magistrate Judge Susan K. Lee

**PLAINTIFFS' MEMORANDUM IN SUPPORT OF
MOTION FOR ORAL ARGUMENT ON ANTHONY RIDLEY'S MOTION FOR
SANCTIONS FOR SPOILIATION [DOC. 261], CHEMTREAT'S MOTION FOR
SANCTIONS FOR PLAINTIFFS' SPOILIATION [DOC. 276],
AND PLAINTIFFS' MOTION FOR RULE 37(E) SPOILIATION SANCTIONS [DOC. 292]**

Plaintiffs Ecolab, Inc. and Nalco Company, LLC (collectively, "Plaintiffs"), pursuant to Judge McDonough's Judicial Preferences § 5(C), file this memorandum in support of their motion seeking oral argument on Defendant Anthony Ridley's ("Ridley") Motion for Sanctions for Spoliations [Doc. 261], Defendant ChemTreat, Inc.'s ("ChemTreat") Motion for Sanctions for Plaintiffs' Spoliation [Doc. 276], and Plaintiffs' Motion for Rule 37(e) Spoliation Sanctions (collectively, the Spoliation Motions), and state as follows:

The Spoliation Motions each allege that a party spoliated electronic evidence, with factual issues that are highly technical, involving massive spreadsheets and including questions of whether reports generated by certain types of computer programs can be considered adequate replacements for lost data and whether forensic analysis disproves sworn testimony regarding the deletion/wiping of data. As some of these issues can be difficult both to present and comprehend within the confines of written briefs, Plaintiffs believe that the Court would benefit not only from

each side presenting their positions and responses on the Motions, but also the opportunity to hear testimony from computer forensic experts on, *inter alia*, any spoliation that allegedly took place.

Further, the Spoliation Motions seek sanctions in the form of default judgment and/or prohibitions on presenting evidence and positions that would significantly hinder the parties' ability to prevail on their respective claims and defenses. Given the impact that the Court's determination of the Spoliation Motions will have on the outcome of the case, Plaintiffs respectfully request that the Court schedule oral argument so that the parties have a full and fair opportunity to present the evidence and arguments that will allow the Court to reach a decision on the Motions.

DATED: July 12, 2023

Respectfully submitted,

ECOLAB INC. NALCO COMPANY, LLC
d/b/a Nalco Water, an Ecolab Company
and/or Nalco Water,

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COUNSEL FOR PLAINTIFFS

CERTIFICATE OF SERVICE

I certify that a copy of the foregoing was filed electronically. Notice of this filing will be sent by operation of the Court's electronic filing system to all parties indicated on the electronic receipt. Parties may access this filing through the Court's electronic filing system.

/s/ David J. Walton
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